



**AgEcon** SEARCH  
RESEARCH IN AGRICULTURAL & APPLIED ECONOMICS

*The World's Largest Open Access Agricultural & Applied Economics Digital Library*

**This document is discoverable and free to researchers across the globe due to the work of AgEcon Search.**

**Help ensure our sustainability.**

Give to AgEcon Search

AgEcon Search  
<http://ageconsearch.umn.edu>  
[aesearch@umn.edu](mailto:aesearch@umn.edu)

*Papers downloaded from **AgEcon Search** may be used for non-commercial purposes and personal study only. No other use, including posting to another Internet site, is permitted without permission from the copyright owner (not AgEcon Search), or as allowed under the provisions of Fair Use, U.S. Copyright Act, Title 17 U.S.C.*



# *LTC Research Paper*

## **Insecurity of Land Tenure in Nicaragua**

by

**J. David Stanfield**

*Land Tenure Center*

University of Wisconsin-Madison  
175 Science Hall  
550 North Park Street  
Madison, WI 53706  
<http://www.ies.wisc.edu/ltc/>

# **INSECURITY OF LAND TENURE IN NICARAGUA<sup>\*</sup>**

by

**J. David Stanfield**

**\* Prepared in cooperation with the Swedish International Development Authority (AsDI) and the Ford Foundation.**

All views, interpretations, **recommendations, and** conclusions expressed in this publication are those of the **author and** not **necessarily** those of the **supporting** or cooperating organizations.

**LTC Research Paper 120**

**Land Tenure Center  
University of Wisconsin-Madison**

**January 1995**



## TABLE OF CONTENTS

List of tables	v
Abbreviations	vu
Foreword	ix
 1. Meaning, origins, and implications of legal insecurity	 1
1.1 Insecurity of negotiated transfers	2
1.2 Insecurity of "forced" transfers	3
1.3 Insecurity associated with assignment of land by the state to "beneficiaries" of land programs	5
1.4 De facto titling and tenure insecurity	10
1.5 Distribution of state enterprise lands: Another source of tenure conflict	11
1.6 Land claims of indigenous communities in the Pacific and central regions	12
 2. Types and extent of legal insecurity of land tenure in Nicaragua	 12
 3. Resolution of tenure conflicts	 15
3.1 Land titling in Waslala	15
3.2 <i>La Concepción</i> (Masaya)	17
3.3 Punta Gorda, Nueva Guinea	18
3.4 Titling and reordering of land rights in San Carlos	19
3.5 PRODERE experiences with titling and cadastre	21
3.6 UNAG efforts at legalization of land tenures	22
 4. Opportunities for action	 23
 Annex 1 Title issued by INRA	 29
Annex 2 INRA data on land titling, 1992	35
Annex 3 Land distribution, Area de Propiedad del Pueblo	39
Annex 4 Persons interviewed, 4-22 October 1992	45
Annex 5 Persons interviewed, 15-29 September 1994	47
 References	 49



## **LIST OF TABLES**

		<u>Page</u>
Table 1.1	Acquisition of land for the agrarian reform	4
Table 1.2	Titling of agricultural land by the state, July 1981-August 1994	8
Table 2.1	Land tenure insecurity on agricultural land titled before 1990	13
Table 2.2	Agricultural land titled after February 1990	14
Table 2.3	Titling of urban land and property conflicts	14
Table 2.4	Summary of legal insecurity of tenure situation	14
Annex 2.1	Titling of agrarian reform lands, by type and region, March-April 1990	37
Annex 2.2	Cooperative titling of agrarian reform lands, March-April 1990	37
Annex 2.3	Individual titling of agrarian reform lands, March-April 1990	38





## **ABBREVIATIONS**

<b>AGROEXCO</b>	Agricultural Export Company
<b>ASDI</b>	Swedish International Development Authority
<b>APP</b>	Area de Propiedad del Pueblo
<b>ATC</b>	Asociación de Trabajadores del Campo
<b>CAS</b>	Cooperativas Agrícolas Sandinistas (Sandinista Agricultural Cooperatives)
<b>Ccs</b>	Cooperativas de Crédito y Servicio (Cooperatives of Credit and Service)
<b>CIERA</b>	Centro de Investigación e Estudio de la Reforma Agraria
<b>CODEPA</b>	Comisión de Producción Agropecuaria
<b>CONAGRO</b>	Consejo Nacional del Agro (policy coordination group, composed of representatives of MAG, INRA, and IRENA)
<b>CORNAP</b>	Corporación Nacional de la Privatización (National Privatization Corporation)
<b>CsM</b>	Cooperativas de Surco Muerto ("Dead Furrows" Cooperatives))
<b>CT</b>	Colectivos de Trabajo (work collectives)
<b>DGPA</b>	Dirección General de Políticas Agrarias
<b>FENACOOB</b>	Federación Nacional de Cooperativas Agropecuarias (National Federation of Agricultural Cooperatives)
<b>IDB</b>	Inter-American Development Bank
<b>INETER</b>	Instituto Nicaragüense de Estudios Territoriales (Nicaraguan Institute of Territorial Studies)
<b>INIFOM</b>	Instituto Nicaragüense de Fomento Municipal (Nicaraguan Institute of Municipal Promotion)
<b>INRA</b>	Instituto Nicaragüense de la Reforma Agraria (National Institute for Agrarian Reform)
<b>IRENA</b>	Instituto de Recursos Naturales (National Resource Institute)
<b>Oct</b>	Oficina de Cuantificación de Indemnificaciones (Office of Quantification of Indemnifications)

<b>Oar</b>	Oficina de Ordenamiento Territorial (Office of Territorial Ordering)
<b>PRODERE</b>	Programa de Desarrollo para Desplazados Refugiados y Repatriados en Centro America
<b>NGO</b>	nongovernmental organization
<b>UCA</b>	Universidad Centroamericana (Central American University)
<b>UNAG</b> Union	Nacional de Agricultores y Ganaderos
<b>UNAN</b>	Universidad Nacional Autonoma de Nicaragua (National Autonomous University of Nicaragua)
<b>UNDP</b>	United Nations Development Program
<b>UNO</b>	Union Nacional Opositiva (National Opposition Union)
<b>UPE</b>	Unidad de Producción Estatal (Unit of State Production)

## FOREWORD

**This paper was prepared at the request of the Swedish International Development Authority (SDI ) in collaboration with the land markets project of the Ford Foundation and the Land Tenure Center. The terms of reference for the inquiry were as follows:**

**A necessary condition for moving toward sustainable development in Nicaragua is the achievement of a satisfactory level of security of tenure. The objective of this study is to identify the priority components for a program to legalize existing rights to land which are not being adequately covered by existing programs. The study will make an inventory and a review of already existing donor-supported projects for improving tenure security as well as projects being seriously contemplated or in the pipeline and projects being conducted by government and NGOS with their own resources.**

**The existing and planned programs of legalization will be examined using the following criteria:**

- degree of coordination among agencies involved in legalization of tenure, modernization of the registry system, and monitoring of related programs;**
- type and adequacy of graphic description of parcel boundaries (cadastral mapping);**
- o methodologies for documentation of existing rights to land;**
  - > mechanisms, norms, and procedure for resolution of conflicts and compensation of legitimate claims which have been modified or extinguished;**
- models for titling of rights, which are flexible enough to encompass a variety of situations and variable number of rights;**
- steps taken for modernization of the registry system to absorb and continually update the new titles; and**
- adequacy of legal, policy, and administrative structure for the legalization program and for the modernization of the registration system.**

**Before initiating the study and to complete the investigation within the allotted time, it was agreed that tenure issues in the Atlantic region would not be addressed in the report. Yet, the questions of indigenous peoples' claims to land and the problems of colonists' incursions in that area are serious and merit separate consideration**

**Initial fieldwork for this study was conducted** during the month of October 1992 in collaboration with Freddy Ardor and Orlando Cortez, School of Agricultural Economics, National Autonomous University of Nicaragua (University Nacional Autónoma de Nicaragua, UNMAN) in Managua. Special thanks are given to these two individuals for sharing their insights. Follow-up work was done in September 1994 in collaboration with Rosa Amelia Rodriguez. Appreciation is extended as well to Jaime Coffre, National Institute for Agrarian Reform (Instituto Nicaraguense de la Reforma Agraria, INRA), who explained the government's strategy for dealing with tenure insecurity in agriculture; to Mireya Molina, who provided a careful analysis of the agrarian sector's legal situation; and to Ricardo

**Guevara, who provided analysis of the indemization bonds, building on the work by John Strasma and Javier Molina in 1994.**

**The list of people contacted for the study is presented in annexes 4 and 5. Each person provided thoughtful suggestions and was generous of his/her time. Errors of fact and interpretation, however, remain the sole responsibility of the author. The views expressed herein are those of the author and not those of the Land Tenure Center or| .**

# **INSECURITY OF LAND TENURE IN NICARAGUA**

by

**J. David Stanfield**

The objective of this paper is to describe **priority** actions for **reducing** the legal **insecurity** of tenure to land in **Nicaragua**. To achieve this end, the study explores (1) the meaning **and** origins of tenure insecurity as well as the implications of tenure insecurity for the development of the country; (2) the extent of different types of tenure insecurity; (3) the options presently being explored for dealing with the problem in **Nicaragua**; and (4) recommendations for action.

## **1. MEANING, ORIGINS, AND IMPLICATIONS OF LEGAL INSECURITY**

The concept of land tenure relates to the rules whereby a society defines the access people have to the land and the **uses** to which people put the land, including the economic benefits generated therefrom. Tenure, then, includes such terms as property title, life-estate title, leasehold, usufruct, and the like. There are myriad ways of defining entitlements to and uses of the land, and all are social creations, that is, agreements **among** people **about what rights** are held, by whom, and for what length of time. To provide structure to such agreements, laws are passed in most societies about what sort of tenure arrangements are supported by the power of the state.

Tenure insecurity under such conditions is a combination of objective and subjective situations. Objectively, tenure insecurity can be exacerbated by the absence of a legal document defining a particular right or the existence of multiple documents describing the same rights for different people or entities over the same piece of land. Subjectively, insecurity can occur in situations of a rising probability of losing rights to land, which occur when society's rules of tenure change or when the power of one group to defend its rights wanes while that of a competing group increases.

The complex histories of property legislation in most countries testify to the different manifestations of tenure insecurity and to the futility of eliminating its occurrence. However, when excessive tenure insecurity affects large segments of the population, people tend to devote their energies to protecting their claims to land and do not make the necessary investments of capital and labor for improving productivity and meeting the needs of society. In this sense, providing an adequate security of tenure is a precondition for the functioning

of a modern economy, **though** it is certainly not sufficient for achieving economic, social, and environmental progress.

People derive rights to land in a number of ways, each of which has a risk of increasing their insecurity of tenure:

- ▶ **Negotiated transfer:** In private property systems—such as in Nicaragua in "normal times"—people either purchase rights from the legitimate holders of those privileges or trade for them. The law encourages the recording of changes of ownership or other long-term entitlement to land in the property registry. Any right that is not recorded will ordinarily be superseded in a court of law by a right that is registered.
- ▶ **Force:** Rights also derive from the use of force—the conquering of one people by another, the obligation imposed on a weaker person by a stronger one, or the use of the state's police power to acquire private property. Again, even in cases of forced transfer, the private property system encourages the recording of new rights in the process of superseding those that were taken, or else a court at some subsequent time can reverse the forced acquisition.
- ▶ **Social allocation:** Finally, the social entity can recognize the rights that derive from the extinction of the public's entitlement to land in favor of a private individual. The titling of public land to private **individuals** through programs of colonization or agrarian reform is an example of such an allocation. It is usually the responsibility of the acquirer of such rights to record the entitlement in the relevant property registry, or a second **allocation** may be made of the same **land**—and the one that is recorded first will **usually** be held as legitimate in a court of law.

In Nicaragua, insecurity of tenure has increased for each type of transaction of rights over land due primarily to the same claim being made by different people for the same piece of land.

### 1.1 INSECURITY OF NEGOTIATED TRANSFERS

The negotiated transfers in Nicaragua may fail to provide secure rights to the "buyer" if the probability of undetected fraud by the "seller" is relatively high. This happens when the property registries do not contain accurate and accessible information on the registered holders of rights to the land. The property registry in Matagalpa, for example, was burned in 1979, and efforts to reconstruct the information which it contained have been only partially successful since some persons did not re-record their rights. In other property registries, the documentation of rights is in bad condition **physically**, some information is missing, and cadastral records have not been updated for several years. In yet other registries, there are no cadastral maps, which makes the location of properties and their boundaries difficult. These deficiencies produce situations where different people can claim the same piece of land.

## 1.2 INSECURITY OF "FORCED" TRANSFERS

The problem of perceived illegitimacy of forced transfers can last a long time. In the case of the Sutiava of León, the **annexation of land in 1902** is still **not** recognized as legitimate by the **indigenous** community. **Land invasions to** recover these rights contribute to the tenure insecurity of the present holders of rights to these lands.

**The Somozas' often not-too-subtle "negotiations" for land resulted in the displacement of many families in the Pacific region from the 1930s through the 1960s. The degree of coercion in these transfers might be debated, depending on one's point of view, but there was enough resentment to provide much of the energies for the overthrow of the Somoza government in 1979 and the removal of the Somoza family and others from lands which they claimed having acquired legitimately.**

**The expropriations and confiscations of land throughout Nicaragua in the 1980s are still the subject of acrimonious debates and violence. The state's acquisition of properties following the revolution of 1979 proceeded in stages, summarized in table 1.1. The first stage was confiscation of approximately 2,000 properties (occupying about 1,400,000 manzanas) of the Somoza family and *allegados* (people closely linked to the Somozas) through the application of Decrees 3, 38, and 329, issued by the new junta in July and August of 1979, prior to the creation of a separate legislative body. In July 1981, Decree no. 760 approved the state's acquisition of properties abandoned by their owners, which resulted in the procurement of 252 properties occupying 18,230 manzanas. Also in July 1981, the ruling junta approved Decree no. 782, the Agrarian Reform Law (which was modified by Law 14 in January 1986), authorizing the expropriation of abandoned or poorly managed properties. Under this law the state acquired an estimated 1,200 properties, totaling about 820,000 manzanas. During the 1980s the state also purchased 1,050 properties occupying 196,000 manzanas (including properties which had been mortgaged to the state development bank but the debt had not been paid) and obtained another 860 properties occupying approximately 89,000 manzanas through other mechanisms.**

The acquisition of at least 5,362 agricultural properties (2,523,181 manzanas) by the previous government as well as the de facto permanent occupation of lands which were to be temporarily held (estimated to be about 300,000 manzanas) have been the subject of much conflict since the time of their appropriation.

The outward expression of latent conflict dramatically increased following the issuance of Decree 11-90 by the UNO government immediately upon its entering office. The new law established a review commission, whose mandate was to reassess all acquisition of property from private owners by the previous government and to return properties determined to have been either unjustly acquired by the state or illegally occupied by third parties. Present occupants and owners of these lands are concerned about the loss of their rights while previous owners are worried that their prior rights will not be respected.

**TABLE 1.1** Acquisition of land for the agrarian reform<sup>a</sup>

MEANS OF ACQUISITION	No. OF PROPERTIES	AREA (mz)
Decrees 3, 38, and 329	2,000	1,400,000
Agrarian Reform Law (1981)	1,200	820,000
Abandonment law	252	18,230
Purchases by Sandinista government	1,050	196,000
Purchases by present government	96	250,000'
De facto occupations during Sandinista government	510	300,000'
Other means	860	88,951
<b>TOTAL</b>	<b>5,968</b>	<b>3,073,181</b>

**I**

a. Source for data on the Sandinista government is Mireya Molina Torres, "agraria y su vigencia actual," mimeo. (Managua, October 1994). Data do not include land acquired but returned to previous owners and therefore not available to *campesinos*.

b. Estimates of purchases and de facto occupations come from various functionaries and require more time and effort to verify. The other data in the table are also estimates, though are more substantiated since many of the acquisitions of land have not been adequately documented and since the files of **INRA** (Instituto Nicaragüense de Reforma Agraria, responsible for applying the Agrarian Reform Law and other laws and decrees dealing with rural properties) are being reorganized, having proved difficult to tabulate in their present state. Moreover, different estimates exist for the same parameter, such as the figure provided by the Ministerio de Finanzas, which estimates there to be 817,000 manzanas of land confiscated under Decrees 3 and 38, versus the total of 2,232,220 manzanas "confiscadas" mentioned by the *Nuevo Diario* (20 October 1992, p. 8). As one researcher advised me, "If the data on the agrarian reform from any source are internally consistent, be suspicious."

The legal status of many of the properties acquired in one way or another by the state is complicated by the fact that about 70 percent of the properties procured from private owners by the previous government (about 3,750 properties) were never legalized as holdings of the state. The properties were occupied by the state or beneficiaries of the agrarian reform without the state's completing the chain of actions that existing law establishes for legally obtaining ownership. This acquisition of rights of ownership should be finalized through the entry of the state as owner in the appropriate property registries, thus extinguishing and physically crossing out the previous owners' rights.

Yet, some of the former owners of many of the 1,600 properties that had been legally acquired by the state and properly recorded in the registries are now claiming that the state's acquisition of rights to their land had happened under duress, that they had not received adequate compensation, or that they were forced to agree to the transfer of ownership. With control of the state's administrative apparatus passing to a government that is more responsive to the interests of previous owners, *these* people now feel empowered to reverse the earlier transfers or at least to appeal for a review of their cases.



**This questioning of the legitimacy of** past governmental acquisitions and allocations of land **through** review and possible reversal leaves present occupants of land in substantial doubt **about** the security of their claims. Past claimants of land likewise have little assurance that they will recover the land or, if they do so forcibly, what the consequences will be over **the coming years.**

**Under such conditions, violence has become a serious problem in both rural and urban areas. Present occupants of land react angrily to the threat of eviction while claimants attempt forcibly to reoccupy the land, producing a conflictive situation which can only prejudice the long-term investment process required for progress in the country.**

### **1.3 INSECURITY ASSOCIATED WITH ASSIGNMENT OF LAND BY THE STATE TO "BENEFICIARIES" OF LAND PROGRAMS**

**The allocation of rights to land through** the agrarian reform has, in addition, contributed to the prevalence of insecurity in land tenure. Titling of land occurred in five ways during the previous government:

- (1) titling of parcels **of** land to **groups of people, who** were expected to form group farming enterprises or cooperatives that would manage the farms collectively (the **Cooperativas Agrícolas Sandinistas, or CAS**);
- (2) **titling of parcels of land to smaller groups called work collectives (Colectivos de Trabajo, or CT,** which were also known as family collectives since their members were often from the same family), with undefined rules for collective or individual management of the assigned lands;
- (3) titling of parcels **of land to groups that** were permitted to farm **individually, though** physical boundaries between parcels were not allowed (only a dead furrow was **permitted, or a small ditch produced by plowing the land in both directions, thereby giving** the name **Cooperativas de Surco Muerto, or CSM**); in some cases titles were issued to groups of farmers **organized into Cooperativas de Crédito y Servicio (Cooperatives of Credit and Service, or Ccs), with the understanding** that the parcels **so assigned would be** farmed **individually by** members **of the group**;
- (4) titling to individuals, which occurred more frequently in the late 1980s and was of two subtypes with differing importance in different regions: (a) titling to individuals, which involved the termination of previous rights, and (b) titling in special regions, which basically concerned land that people already possessed but had not legally recorded; and
- (5) issuing of collective titles to indigenous communities in the Atlantic regions.

Most of the titles, other than those for the *precaristas* and indigenous communities, were issued as "provisional" since the state did not have legal possession of the land. Such provisional titles could not be recorded in the property registries until the state's ownership had been verified. This difficulty was overcome in 1990 with National Assembly of Law 88, which transformed provisional titles into full property titles capable of being recorded in the registries regardless of whether the affected **holdings had been previously inscribed as property of the state.**

However, most of the provisional titles so transformed still cannot be recorded in the registries without further documentation, since the boundaries and areas of the properties were not described with sufficient precision. Even the definitive titles issued by the previous government did not contain accurate descriptions of parcel boundaries or accurate estimates of parcel areas, both requisites for recording such titles in the property registries. An additional complication with the provisional titles often is the recording of agrarian reform titles in special books within the property registries, not in the "real rights" section used for private property. This anomaly still occurs, even after the January 1990 passage of Law 88, which instructed registrars to accord agrarian reform titles full property rights.

As if these complications were not enough, the facilities offered by Law 88 for legalizing provisional titles ended with the derogation of the law under somewhat confused circumstances (see Molina 1992). Since Law 88 was passed as a special category of legislation (*orden público*), the rights and benefits granted by the law are unalterable ( ) except through legislation that expressly modifies those rights. Thus, the probable derogation of Law 88 (by Law 133 and by suggestion in the presidential veto of Law 133, which was upheld by the Assembly) does not affect rights bestowed by the law prior to its probable derogation in July 1992 (we use the term "probable derogation" because the Supreme Court has not as yet judged the issue, and there is basis for doubting the impacts of the exemption and subsequent veto). It seems safe to assume that Law 88 is no longer in effect, but that rights bestowed by that law prior to 31 July 1992 are legally defensible.

Under such an assumption, it is important to note that any property titles issued by INRA (Instituto Nicaragüense de la Reforma Agraria) after 31 July 1992 will be governed by Agrarian Reform Law no. 14 of 1986, which is still in effect, and not by Law 88. In particular, while Law 88 bestowed full property rights, that is, the right to sell, give, transfer, inherit, and effect any other type of alienation of the property, the Agrarian Reform Law states that titled property rights can be transferred or subdivisions of properties carried out only with the expressed authorization of INRA. Without INRA's ratification of these operations, no property registrar should record them.

Another complication with registering agrarian reform property is that many of the titles granted were allocated to groups of people (group farms, known in Nicaragua as cooperatives or work collectives). The names of the individual members of these groups at the time were placed on the provisional titles, which provided the approximate area of land assigned to each group and the names of adjoining properties or owners. However, with the passage of time and the turnover of group members, many of the present members of these groups differ from those named on the provisional titles. Yet, before the land can be definitively titled, the group must be recertified by the Ministry of Labor and a legal entity with established.

The previous government's allocation of rights to land following its loss in the elections of 1990 (the period of the *piñata*) has produced yet another series of conflicts over land. This set of disputes arose largely due to the lack of formal titling of land by the government before the elections. It seems likely that most apportionments in the transition period were merely

formalizations of past, de facto allocations of rights. On the other hand, there were allocations made after the elections—but before the assumption of power by the new government—that awarded land to people who were not eligible as agrarian reform beneficiaries or as beneficiaries of urban property-distribution programs. These latter cases, viewed as illegitimate by most political groups in Nicaragua, are being identified and reviewed and will receive some adjustment, including eviction of land recipients. Estimates of illegitimate allocations of agricultural land involve about 650 titles of more than 50 manzanas per person, totaling approximately 110,000 manzanas (estimated by assuming 527 "suspicious" titles averaging 82 manzanas of land, 91 such titles averaging 293 manzanas of land, and 32 such titles averaging 1,217 manzanas of land).

Table 1.2 shows the extent of land titling during the transition period (March-April 1990), titling before February 1990, and titling by the present government.

Three new complications to the tenure situation were introduced following the election of the UNO government:

- (1) The peace accords and agreements with the Nicaraguan resistance and the Nicaraguan army committed the government to assigning land to their ex-combatants. In the opinion of the ex-combatants, this assignment did not occur with sufficient speed or **involve enough land, leading to invasions of both agrarian reform and privately owned land by refugees and members of the ex-resistance as well as by other landless groups and ex-army members.**
- (2) In 1990, agrarian **commissions** were **established at the departmental and municipal levels to negotiate among the various groups in conflict over agricultural land.** The commissions issued decisions about the insertion of the ex-combatants (usually) onto lands already claimed by others (the government's own state farms, cooperatives, and other private lands). These commissions were successful in reducing the number of conflicts among people claiming rights to the same land, but questions about the legitimacy (legality) of the commissions' decisions have created another layer of controversy over rights to land.
- (3) The National Review Commission, created to detect and correct usurpation of land from prior owners, received approximately 6,000 requests from previous owners for the return of land (approximately 4,000 of which concerned agricultural land). The commission issued about 2,200 decisions for the return of land, in most cases without determining the nature or basis of the existing occupation. These decisions usually permitted the claimant to request the state courts, police, and army to enforce the eviction of present occupants. The conflicts that arose as occupants defended what they saw as their legitimate rights led to a paralysis of the process. This cessation was solidified by the Supreme Court's decision that important parts of the decree authorizing the National Review Commission were unconstitutional.

**TABLE 1.2** Titling of agricultural land by the state, July 1981-August 1994

FORM / PERIOD	NO. OF TITLES	AREA (mz)	FAMILIES (mz;
<b>Group farms (CAS, Ccs , CT, CSM)</b>			
07/81-12/89*,	740'	144,343	10,769 (est)
03/90-04/90*,	1,999 <sup>2</sup>	480,733'	26,308 (est)
09/92-08/94 <sup>6</sup>	110	37,921	1,545
Subtotal	2,849	661,997'	38,622''
<b>Individuals</b>			
07/81-12/89*,	13,400'	255,000	13,400
03/90-04/90*,	8,383'	411,298 <sup>6</sup>	8,383
05/90-03/92 <sup>+</sup>	17,711 <sup>5</sup>	510,983'	17,711
09/92-08/94'	6,217 <sup>6</sup>	152,596	6,217
Subtotal	45,711	1,329,877	45,711
Total	48,560	1,992,874	84,333
State-acquired land in state enterprises (APP)		755,000 <sup>9</sup>	
Other titling of land already in possession of recipients of titles'			
Indigenous communities (1981-04/1990)	n.d.	170,000	600
Special zones ( <i>precaristas</i> )	52,900	1,459,996	52,900

1. Estimate of the number of cooperatives that had a title of some sort prior to February 1990, were not retitled in the interim period following the election of that date, and have not had their titles regularized by INRA in 1993 or 1994. Data are indicative only for entire table and are net of land that has been sold or returned to ex-owners in negotiated settlements, which have occurred in recent years.

2. Source: OOT, September 1994. Area titled includes land titled to Ccs cooperatives, that is, land farmed individually but assigned to the cooperatives.

3. This estimate is close to that of Molina (1992, p. 51), table 1, net of the 100,000 manzanas occupied by the resistance.

4. Source: OOT, September 1994. Data almost exactly as reported by Dirección General de Agraria, INRA, 1991, as tabulated in Amador et al. (1991), table 3.

5. Source: Dirección de Tenencia de la Tierra, INRA, April 1992, tabulated by Amador and Ribbink (1992, p. 34), table 3.

6. Source: Dirección General Jurídica, INRA, September 1994. Unfortunately, the number of cooperative titles included in these statistics had to be estimated.

7. Estimate includes 300,000 manzanas of national lands or privately claimed land, though not necessarily privately titled and recorded in a property registry, and 100,000 manzanas of land previously assigned to cooperatives and in dispute. Also includes 300,000 manzanas of land purchased by the present government.

8. Based on Molina (1994), tables 1 and 3.

9. Source: Molina (1994), table 3. Note that the sum of the area titled and the area of CORNAP enterprises adds to approximately 2.75 million manzanas. The difference between that figure and the estimate of approximately 3 million manzanas acquired by the state for the agrarian reform corresponds to the area that is estimated to have been returned to prior owners, not taking into account the return of land by CORNAP (due to lack of data).

\* Two types of title were issued during the 1981-April 1990 period: definitive, for land to which the government had legal and recorded titled; and provisional, for land to which the government had not completed the transaction and did not have legal and recorded title. In both types of title, the land was identified by naming neighbors holding land to the north, east, south, and west of the titled parcel and only approximately estimating the area.

\*\* Data include land originally titled to beneficiaries but may not completely reflect holdings returned to previous owners by the Commission of Review (Comisión de Revision), created by Decree 11-90.

**t** These allocations were made through a *constancia de asignación*, a certificate issued by INRA that named the individual being granted agricultural land and an estimate of the area assigned. The bordering properties were not identified—nor was a plan of the property prepared nor was the *constancia* recorded in any book of the property registry. We assume that some of these *constancias* have been regularized through the issuance of regular titles in 1993 and 1994.

**tt** These allocations are made through a definitive property title, which is recordable in the property registry.

In some cases the decisions made by the commission during its year of operation have been ignored; in other cases the claimants have attempted to implement the determinations through use of force; and in still other cases the **negotiations** between previous owners and present occupants have produced either complete or partial evictions or decisions to relinquish the claim. In urban areas efforts at returning rights to land to their former holders have likewise brought violent confrontations in some instances and mediations and satisfaction in others. The perceived illegitimacy of government's allocating rights to land and the existence of different "legal" titles to the same property are the main sources of tenure insecurity.

Several decrees issued in September 1992 attempted to clarify the procedures for reviewing claims of previous owners, for compensating claimants if they proved they were rightful owners of the properties, and for deciding whether the properties "can be returned." Once the commission concludes that the claimant really was the registered property owner at the time of appropriation by agrarian reform (or, in the case of urban properties, by some other agency or occupant) and, moreover, that the property cannot be reinstated, it refers the case to the Office of Quantification of Indemnifications (Oficina de Cuantificación de Indemnificaciones, Ocl) for determining the value of compensation to be awarded, if any, the bank debt of the owner in cases of unpaid loans, the interest due on unpaid loans, and the overdue taxes. The properties are granted the cadastral value valid as of September 1992, not the value at the time of expropriation (which is presumably also the value used to guarantee mortgages).<sup>1</sup>

An important issue is whether the claimant had an unpaid loan which was guaranteed by the property, how to value that loan **and** accumulated interest, and how to interpret loan foreclosures that deprived the previous owner of the property. Apparently the government is willing to admit all contentions of people who presented their claims under Decree 11-90 and who can prove that they were owners of property lost through confiscation or expropriation or simple occupation during the previous government. The government is also willing to review claims from people who were confiscated because of being related to Somoza or members of his political group, though there is no automatic judgment in their favor, as in the case of other acquisitions.

---

1. The value at time of expropriation, if market value were used, would probably be substantially less, even in dollar-equivalent terms, than the 1992 market value, since property owners were leaving the country and the supply of properties on the market was large. The question of valuation will influence the overall cost of indemnification, of course, as well as any debts that previous owners have to repay.

The recent decrees create a compensation procedure for awarding claims of previous owners with twenty-year bonds, at 3 percent interest, with value tied to the official rate of exchange for the U.S. dollar and capitalized interest. These bonds are freely transferable and can be used to purchase publicly sold shares in state property. At present, the bonds cannot be used for paying other debts to the state such as taxes.

The reactivation of the National Review Commissions could lead to satisfying demands for compensation presented by previous owners, who could then withdraw their pressures on present occupants. This would facilitate legalization of the rights of present tenants. At the same time, commission decisions to recognize the property rights of previous owners could complicate efforts to legalize the claims of present occupants, who must await determination of whether the properties were really owned by the claimants or whether they "cannot be returned."<sup>2</sup>

#### 1.4 DE FACTO TITLING AND TENURE INSECURITY

**De facto allocations are also common in Nicaragua, with its tradition of absorbing unemployed people by encouraging or allowing them to extend the agricultural frontier by converting forestland to agricultural uses. These people demonstrate possession of the land by working it, typically by clearing the forest cover.**

The Agrarian Reform Law of 1981, as amended in 1986, permitted the definitive titling of such **individuals, and nearly** 53,000 people (*precaristas*) received titles (see table 1.2, p. 8). In the past there has been little controversy or insecurity in these allotments of rights to land. However, with rising concern about continued deforestation of the country and with creation of protected areas such **as the BOSAWAS and SIAPAZ reserves, questions emerge about** the security of existing claims within these areas and the nature of future rights established by **migration** into the territory. Also, as the **agricultural** frontier moves farther east and **south**, there are increasing conflicts between the *colonos* and the indigenous groups, who claim large portions of the Atlantic coastal region.

De facto allocations have also occurred on publicly owned land in urban areas as people migrated to the cities during the war, occupied land, and built assorted housing units. Some of these allocations have been given subsequent documentation while others have not. As the municipal governments adjust to new municipal legislation, which gives them direct administrative responsibility over ejidal lands assigned to them during the colonial era to provide for future urban growth, and as the financial crunch on municipalities intensifies, pressures will increase to sell such lands rather than simply legalize spontaneous occupations. Political criteria used for **assigning and legalizing such** claims add to **the complications** and tenure insecurity for many urban residents.

---

2. See Stanfield (1994) for a discussion of the achievements and problems of the programs launched in 1992 for resolving property conflicts.

### 1.5 DISTRIBUTION OF STATE ENTERPRISE LANDS: ANOTHER SOURCE OF TENURE CONFLICT

State-owned lands not administered by INRA are also being reassigned in a program of privatization, which primarily affects the state's agrarian reform enterprises, commonly known as APP (Area de Propiedad del Pueblo) or UPE (Unity de Producción Estatal). According to CORNAP, by early 1992 the redistribution of these lands had affected AGROEXCO (35,398 manzanas, mostly cotton land and processing facilities making up 114 properties in León and Chinandega), HATONIC (309,427 manzanas used for livestock in 193 properties), CAFENIC (76,624 manzanas, mostly coffee land and processing facilities in 133 properties), and CHILTEPE (15,355 manzanas for livestock and dairy production in 154 properties).

Of the 436,804 manzanas containing 594 properties which had been part of these enterprises, 30.6 percent of the land has been ordered returned to the "private sector," that is, mostly to ex-owners though in some cases to third parties. The ex-owners are required to pay for any infrastructural improvements made on the properties. Of the remaining 69.4 percent of the land, 17.3 percent was assigned to ex-soldiers, 20.2 percent to demobilized members of the *resistencia nicaragüense*, and 31.9 percent to workers from AGROEXCO, HATONIC, CAFENIC, or CHILTEPE.

The workers, in turn, organized themselves into corporate enterprises (Sociedades Anónimas Laborales) both to establish legal standing and to create an ownership structure that would encourage investment and improve productivity. The *sociedades*, whose employees are co-owners,<sup>3</sup> have four classes of members:

- (1) ex-workers from AGROEXCO who were not employed by the new enterprise, who received 6 shares apiece (with a nominal value of C\$5 per share);
- (2) 180 ex-workers of AGROEXCO who were employed by the new enterprise, who received 10 shares apiece;
- (3) selected present-time employees, who received an additional 10 shares for length of employment and for past contributions to the enterprise; and
- (4) several of 346 ex-workers, who were not employed by the new enterprise but who received an additional 10 shares for length of service and for past contributions to the enterprise.

CORNAP provided a certificate to these groups for the "administration and keeping of goods" (*administración y guarda de bienes*), but retained ownership for the time being. These titles have not been recorded in the property registries. In addition, CORNAP typically has a rental contract with the recipients of the property, with an option to purchase (*escritura de arriendo con opción de compra*), through which the receiver is obliged to pay a rent to CORNAP for the use of the land and infrastructure. These contracts were also not recorded in the registries. The financial arrangements in some cases are still in dispute. The state will claim ownership of the land until sales are complete, which may be substantially delayed and cause confusion over the status of the land titles.

---

3. In the case of the AGROEXCO, 526 workers organized into the new Empresa Carlos Arguero.

## 1.6 LAND CLAIMS OF INDIGENOUS COMMUNITIES IN THE PACIFIC AND CENTRAL REGIONS'

Indigenous communities in the Pacific and central regions of the country have historical claims to extensive pieces of highly productive, valuable land. The claims of these communities derive from colonial times, as modified in the early 1900s by actions of the Zelaya government to privatize land, which delineated indigenous from nonindigenous lands.

The titles for these lands indicate that they are not accessible on the regular land market, that is, they cannot be bought or sold. The communities have the right to rent their lands, however, as exemplified in the Sebaco area, where ten-year rental contracts provide nonindigenous people with access to community land. In Sebaco, renters pay a differential fee depending on the quality and use of the land leased. In practice, these rental arrangements are more often theoretical in that the rent is either nominal, not paid (as in the Matagalpa community), or not even charged (as in the case of the Sutiava in León). Members of the communities retain usufruct (*uso y goce*) to pieces of land allocated to them by their indigenous governing bodies.

Since 1953, the *alcaldías* of the *municipios* where indigenous communities hold land have had the right to oversee and certify elections of the boards of directors of the communities. Competing political interests contribute to divisions in the communities and conflicts over which is the legitimate governing body. This uncertainty assumes greater significance as the communities reassert their rights to land and act legally and politically to recover control over lands which have long been in nonindigenous hands or which have greatly increased in value.

The resurgence of indigenous communities as cohesive ethnic groups with specific land claims—along with the existence of documented titles to community land—adds another layer of tenure rights to an already complex situation. In León, there are constant maneuvers by the Sutiava Indians to recover lands thought to have been usurped illegally by non-Sutiava. In Sebaco, very productive land within the titled area of the indigenous community is claimed by private owners and by cooperatives which were assigned land by the previous government. In some cases, as in the Empresa del Valle de Sebaco, which occupies about 400 manzanas of highly productive land, rental agreements continue and payments are made to one of two *juntas directivas*. Some of the cooperatives pay the rent, but others claim to be legitimate owners. Some private owners can produce recorded titles that show them to be the rightful owners.

## 2. TYPES AND EXTENT OF LEGAL INSECURITY OF LAND TENURE IN NICARAGUA

Following the election in February 1990, the UNO government moved immediately to stop the war, resettle the ex-combatants, and return the land that had been "unjustly" taken from

---

4. This paper does not deal with problems of indigenous people of the Atlantic region.



its previous owners. Through the various procedures described above and due to the form of state acquisition of land and its titling to cooperatives and individuals, in repeated instances several people claim the same rights to the same piece of land. In most cases these claims have a basis in law. This superimposition of rights lies at the core of the problem of legal tenure insecurity.

The extent and seriousness of legal insecurity of land tenure, with its strong social and psychological overtones, can be only approximately described with statistics (even if reliable statistics were available, which is not the case in Nicaragua). Some data exist that give a rough estimate of the extent of tenure insecurity, which is inordinately high whatever index one chooses to use. Data do not exist to provide accurate estimates of the potential and actual conflicts that arise from the claims of indigenous communities.

For the time being—and for purposes of estimating the situation after indigenous tenure superimpositions—we present tables 2.1, 2.2, 2.3, and 2.4 to show different types of tenure security calculated from existing data. These data do not consider definitive titles, which have been recorded sporadically in some registries. The Unión Nacional de Agricultores y Ganaderos (UNAG) reckons that 1,500 cooperatives have legally incorporated themselves and have registered definitive agrarian reform titles. This effort reduces somewhat the seriousness of legal tenure insecurity, though subdivision of land, subsequent sales, and continued uncertainty about possible return of land to former owners introduce elements of doubt even for definitive agrarian-reform cooperative titles.

**TABLE 2.1 Land tenure insecurity on agricultural land titled before 1990**

FORM OF OWNERSHIP	# OF HOUSE- HOLDS IN- VOLVED
1. Definitive titles, pre-1990, but recordable only following corrections of errors in titles	
▶ Cooperatives, potential conflict with previous owners'	4,855
▶ Individuals, potential conflict with previous owners'	7,623
▶ Individuals, on previous national lands or lands claimed by some public agency, potential conflict with agency or other untitled claimant	52,900
▶ Indigenous communities, on national lands, potential conflict with other groups	600
2. Provisional titles, pre-1990, with deficient estimates of area and boundary location	
▶ Cooperatives, potential conflict with previous owners'	11,769
▶ Individuals, potential conflict with previous owners'	14,358
3. Families in possession of previously private land, with some document but not a provisional or definitive title	14,180
4. Families in possession of previously private land, with no document	750
<b>Total, pre-1990, agricultural land-holding households, with some title defect</b>	<b>107,035</b>

a. Several UNO government decrees reestablish claims of previous owners to property that the previous government had acquired, especially Presidential Agreement of September 1992, which ordered National Review Commissions to decide all such claims favorably. Even confiscations effected under Decree 3 and Decree 38 appear to be more easily reversed at present, though the situation is, as usual, ambiguous.

Source: Derived from table 1.2 (p. 8).

**TABLE 2.2** Agricultural land titled after February 1990

LAND TITLES	# OF FAMILIES
1. Titles issued during transition ( <i>piñata</i> ), with deficiencies in area and boundaries	
▶ Individuals in possession of and prior to 02/90, on previously private property	7,963'
▶ Cooperatives in possession of land prior to 02/90, on previously private property	24,448'
▶ New assignment of land during transition, previously private property, with less than 50 manzanas per person	1,830'
▶ New assignments with more than 50 manzanas per person	650°
Subtotal	34,891
2. New titles, after April 1990, through July 1992	
▶ <b>Constancias de asignación</b> , on previously state, cooperative, or private lands, with deficient estimates of area and boundaries	24,038
Total households with title defects, post-February 1990 titling	58,929

a. Source: Mireya Molina Torres, 'Legislación agraria y su vigencia actual,' mimeo. (Managua, 21 September 1992); DGPA-INRA, 1992 data (see annex 1); and table 1.2 (p. 8).

b. Source: DGPA-INRA, 1992 data.

**TABLE 2.3** Titling of urban land and property conflicts

PROPERTIES TITLED	# OF CONFLICTS
Properties titled through Law 85, previously publicly owned	3,850
Properties titled through Law 85, previously privately owned	21,250
Urban lots titled through Law 86, on publicly owned land	90,000
Urban lots titled through Law 86, on previously private land	10,000
Total households, urban land with title defect	125,100

**TABLE 2.4** Summary of legal insecurity of tenure situation

FORM OF INSECURITY IN LANDOWNERSHIP	# OF HOUSEHOLDS
1. Total number of households with agricultural land, assigned before May 1990, with some title defect	107,035
2. Total number of households with agricultural land assigned by present government, with some title defect	58,929
Subtotal of households with agricultural land with some title defect	165,964
3. Total number of households with urban land, with some title defect	125,100
Subtotal of households with title defects (agricultural and urban properties)	291,064
4. Previous owners with claims for properties	28,000'
Total number of households with actual or potential conflict over land	319,064

a. Declaration of a functionary of the OoT (Oficina de Ordenamiento Territorial) responsible for review of titles to urban properties assigned under Laws 85 and 86 of 1990; reported in *Nuevo Diario*, 20 October 1992.

### 3. RESOLUTION OF TENURE CONFLICTS

The superimposition of claims to the same piece of land by different people is occurring in alarming proportions, even if the data reported in tables 2.1-2.4 are only approximations. Roughly 40 percent of the households of the country find themselves in a conflict or a potential conflict over land tenure. These conflicts can fester for months, years, or centuries, but for people to make the kinds of investments that are required for the development of the country, security of tenure must be conveyed so that benefits from risk will be realized—for it is not likely that people will plant seeds if they fear they will not be allowed to harvest the crop. Tenure security can be provided by encouraging people to mediate their conflicting claims and come to some agreement about who has what rights to what land.

This mediation can be effected through the legal system, but under Nicaraguan conditions, where nearly every claimant to land can show some sort of legal title, and where people in possession have been fighting for the past ten years to establish or protect their claims, hope that the legal system can reconcile conflicts seems misplaced. On the other hand, if the legal system cannot respond, people, who live next to each another can reach agreement about how their rights to land will be distributed. This process of mediation and redistribution of socially defined—not necessarily legally defined—rights to land has indeed been occurring in Nicaragua. The legal system can encourage such agreements and incorporate them into new property records protected by law and enforced by the state in alignment with the decisions of local communities. The following cases and experiences, though of varying size and impact, show how this mediation is being done and offer some ideas for accomplishing the task of improving tenure security in as short a time as possible.

#### 3.1 LAND TITLING IN WASLALA

Waslala has been the scene of extensive violence for the past ten years. Many of the resistance fighters have settled in the area after the government promised that if they disbanded, they would receive 50 manzanas of land and a house—and money for the arms they surrendered. Army veterans and supporters of the previous government's social and military programs also live in the area, along with members of cooperatives that got land titles from the former government, landowners who acquired title to land when it was settled by colonists in the past century, and displaced indigenous populations. This explosive mixture of people, who are apt to use violence to settle their disputes, has been a great preoccupation of the present government.

To deal with this situation, the president's office asked INItA to provide land to the ex-combatants and to stipulate definitive land titles which would be recorded in the Matagalpa property registry. In 1990, without the knowledge of the existing landowners, the local *comisión agraria* ordered ex-members of the *resistencia nicaragüense* to settle in the area. In essence, then, lands were occupied by force.

Initially the INRA team expected that there would be national lands available for settling the new land occupiers, but upon beginning contacts in the Waslala area, it found that there

were few, if any, unclaimed lands that were suitable for agriculture. Although some lands that had been acquired by the previous government and assigned to cooperatives, some of whose members had subsequently left the area, the members who remained claimed ownership and refused to incorporate the new allottees into their groups, albeit some lands had been forcibly occupied by the *ex-resistencia*. However, the eighteen cooperative members who remained (out of forty original members) finally ceded, agreeing to sell their land for C\$376 per manzana. (The occupying *resistencia* group, in fact, had already divided up the land even before the arrival of the INRA survey team.)

INRA began negotiating with other owners in the area to purchase land, though shortage of funds and objections of landholders have slowed the process of legal acquisition. Ultimately agreements were made to purchase ten properties, totaling 11,900 manzanas, and the procedure for legalization was completed. The price paid ranged from C\$200 to C\$400 per manzana depending on the location and quality of the land as well as on the eagerness of the owner to sell, a factor influenced by past occupations of land and violence in the area. After several months of negotiation, purchases were confirmed so that definitive title could be issued in September 1992.

The process of legalization, which was expected to last for two months, has still not been completed for some of the occupied farms. In one instance, the survey crews were kidnapped when they arrived to lay out the parcels to be titled and INRA was forced to issue definitive legal land rights as a condition for their release. This property is still in dispute.

The 356 definitive titles that were issued contain no written restrictions on the transfer of property, though INRA A is required by law to approve such transfers before they can be inscribed in the property registry. The titles append no survey plan, though each identifies the property by naming owners on the northern, southern, eastern, and western borders (surveying, on the other hand, is designed only to determine the area of the parcel, which is otherwise included in the document). The parcels are not outlined with monumentation, though claimants do create clearings so that neighbors are certain of their limits and in some cases have installed fences to mark boundaries. The surveying of properties and subdividing of parcels was contracted to a local survey company for C\$18 per manzana (or approximately US\$3.40). Titles were issued to both men and women. If a man and woman were married and if both parties had served in the *resistencia*, both received a title. Otherwise, only the "family head," usually a man, was named as owner on the entitlement.

The experience in Waslala has exposed problems involved with searching the property registries to determine the extent and nature of the rights of individuals who claim to be owners of land. The Matagalpa Registry, for instance, had been burned in 1979, and much of the original information was never recovered. In some cases, moreover, the registration of title transfer was recorded in the Bluefields Registry, since Waslala belonged administratively to Bluefields at one time. But even beyond these locational difficulties, land records tend to be poorly maintained, making the situation of relevant information tedious: name indices are disorganized and incomplete; information about transactions is entered into the books by hand and is often difficult to read; pages are missing; and register books are bulky

and hard to handle. Much of the task of finding information depends on the memories of the staff, who in practice make an invaluable resource. Searching the registry, in sum, can be less than confidence-inspiring.

The land market has been active in the Waslala area. Several recipients of land in the titling project effected sales or trades even before receiving definitive title. In some cases *resistencia* members who were not native to the area apparently were anxious to move closer to their families and converted their landholdings into cash. In other cases title receivers seemingly wished to live closer to Waslala and traded their land allocations for others, again before being issued definitive title.

The problem of deforestation is also quite conspicuous in Waslala. The settling of several hundred new persons has stimulated the clearing of forests, which is proceeding without explicit authorization from the Instituto de Recursos Naturales (National Resource Institute, IRENA), whose restrictions on cutting trees are difficult to enforce in an area with a tradition of violence. Poverty is a motivating force to deforesting, especially since people find that agriculture is not very profitable, with or without a definitive title. Moreover, there is growing discontent among titled landowners about lack of credit and technical assistance, low prices for basic grains, and high prices for inputs. The borders of the BOSAWAS reserve, which are close to the titled lands, have been demarcated (brush and trees cleared or marked) to indicate the areas where access to land and timber is permitted. In practice, the BOSAWAS reserve is being severely damaged by logging, one enterprise allegedly organized by one of the commanders of the *resistencia nicaragüense* (a person who was not included in the titling program, however).

In this process of negotiating for acquisition and legalization of ownership, a municipal commission played an important role in explaining the program of titling to the local people and convincing local landowners to sell some or all of their land to INRA. Important parts of the procedure were the commitment of the committee to land acquisition and the actual composition of the commission.<sup>5</sup> This activity of explaining, negotiating, searching for information, checking versions of property rights, and getting people to agree proved to be very time-consuming and demanding of resources for transport and field staff—though it was also essential to finding durable arrangements for dealing with conflicts over land. One of the important lessons of this pilot titling program are the needs to program adequately for this operation and find ways to avoid the expense of contracting professional staff.

### 3.2 LA CONCEPCION (MASAYA)<sup>6</sup>

In the early 1980s Carlos Fonseca, a cooperative (CAS) with fifty-seven members, received title to land that had previously been organized into seven farms. In April 1990, one

---

5. The municipal commission was composed of the *alcalde* of Waslala along with representatives of various governmental agencies (Ministerio de Gobernación, Ministerio de Agricultura, army, and police), local landowners, and the *resistencia nicaragüense*.

6. Presented in the study by Amador y Ribbink (1992).

of these farms, which was expropriated from Isolina Alvarado under Decree 329 (that is, taken by MIDINRA), was occupied by former members of the *resistencia*. A truck and two oxen were stolen and crops were damaged during the first days of occupation; the occupiers remained in possession of the farm.

In 1991, the Carlos Fonseca proposed that it would renounce its claim to the occupied farm if it received due compensation for its investments. In 1992, the twenty-four people, linked politically to the UNO coalition, who were living on the farm agreed to be responsible for damages incurred during the violent takeover; they reimbursed the CAS with C\$1,800 and returned the truck and the oxen. The occupiers have also contracted a lawyer to arrange for their obtaining title to the property.

Gaspar Garcia Laviana, a neighboring CAS, was occupied by a different group. The farm was also confiscated from Sra. Alvarado, who had bought it from Eusebio Velásquez (some members of the occupying group, as a matter of fact, were related to Sr. Velásquez). Sra. Alvarado later petitioned to the local *comisión agraria* for the return of all her farms. The commission ordered that her landownership be reinstated, but has not attempted to enforce its ruling.

In legal terms, there were two owners of the property: the CAS, which has a title for the confiscated land recorded in the property registry; and Sra. Alvarado, who holds a resolution issued by the attorney general (*procuraduría*) that she has legal title. At present neither the CAS nor Sra. Alvarado are in possession of the property, which is still occupied by the group that invaded it in 1990. The CAS has not made legal entreaties to recover the property; the occupying group has contracted a lawyer to secure legal title.

The occupying group has worked the land collectively for the past year and assumed the debt of C\$12,000 which the CAS had left with the Banco Nacional de Desarrollo. Members of the CAS now appear resigned to losing the land. The occupiers, on the other hand, feel more confident in their claim since both Sr. Velásquez and Sm. Alvarado say that they prefer for the new group to retain possession.

### 3.3 PUNTA GORDA, NUEVA GUINEA'

The land conflict in this case began when the government assigned about 5,000 manzanas of land—on which several privately owned farms, a cooperative, and an indigenous community were situated—to "Galileo" and thirty-eight other ex-members of the *resistencia*. The farmers, some having record of title but no formal document, protested that their lands were being usurped after more than thirty years' possession.

One of the occupied private farms was owned by Santos Escobar, a leader of UNAG in the region; other lands were claimed by the Suma indigenous community. The latter group complained, "We have had these lands since colonial times. Zelaya gave us the title, and

---

7. From an article in *Revista Productores* (UNAG).

Somoza respected us; the Sandinistas did as well. Now the fighters for liberty want to rob us of our lands."

The conflict was quite heated, Galileo and Santos Escobar declaring themselves to be enemies to the death. The struggle might have resulted in many deaths had not a mediation commission<sup>8</sup> intervened. This commission met with the contending parties and crafted an agreement whereby each of the resistance members would receive 50 manzanas of land, totaling 1,950 manzanas, most of which had no legitimate owner (that is, was national land). Santos Escobar agreed to relinquish his farm in exchange for another that the commission determined was available. UNAG's president in the region said that it was "a historic day, when even Galileo and Santos would shake hands." The *Revista Productores* article does not explain what happened to the indigenous community's land claim, what led to the discovery of sufficient "national lands" for settling the resistance people, or what land was available for trading with Santos Escobar. The example of mediation is important, however, and demonstrates the role that UNAG can play in reaching local agreement about the distribution of land.

### 3.4 TITLING AND REORDERING OF LAND RIGHTS IN SAN CARLOS

Resolving a triple problem—settling ex-resistance people, removing inhabitants from the Indio-Maíz biological reserve, and stabilizing the population in the buffer zone and Vida y Desarrollo area of the SIAPAZ reserve—is the objective of the INRA titling program in Guásimo, San Carlos. Colonists in this SIAPAZ region profess ownership of up to 1,000 manzanas of land but have no legal title. INRA has negotiated claims in the Indio-Maíz reserve as well as others in less sensitive areas, offering claimants definitive title to 50 manzanas of land in the Guásimo region, roofing materials, technical assistance in the project area, better market connections, and support for a community center, a school, and a health center in a settlement of sixty-five houses.

INRA acquired rights to this resettlement area by "negotiating" with people in Guásimo to give up their claims—based on long possession—to substantial portions of national land within the SIAPAZ reserve, or land legalized as the property of INRA, in exchange for definitive title to 50 manzanas of land in the settlement project area, building materials, and a house plot in Guásimo.

The "territorial reordering" program successfully persuaded forty families to move out of the Indio-Maíz biological reserve and convinced another fifteen families in the Vida y Desarrollo zone to reduce their possessory claims to 50 manzanas of land secured by definitive title from INRA. The program set aside a communal area for houses and buildings to be used by veterans of the *resistencia* and the army and people who moved from the Indio-Maíz reserve.

---

8. The mediation commission was composed of representatives of UNAG, IRENA, INRA, Procuraduría de Justicia, FsLN, and *resistencia nicaragüense* ,

INRA allocated land parcels using criteria that had been worked out in advance through discussions with program participants (the option of assigning parcels randomly had been rejected). Around the communal area, INRA surveyed 110 parcels of approximately 50 manzanas each, assigning the nearest parcels to older people and single women, and the more distant parcels to younger couples.

Since surveying was done in straight lines, without regard for topographical irregularities, parcel borders had to be marked with fences or clearings. The survey teams did place monuments (wooden stakes) at each parcel corner, though these markers will likely disappear with time.

For future reference for programs of this sort, the pilot effort resulted in the following recommendations: (1) layout of parcels should locate boundaries at least 50 meters from the high-water marks of rivers; (2) mountainous areas should not be titled with the same area and land-use plans as level lands; (3) there should be protection zones around springs to provide for public ownership and management; (4) private titling of steep-sided valleys and gorges should be limited, citing either special obligations for private owners or public ownership and administration; (5) more attention should be placed on products with a strong market demand for diversifying agroforestry production on the titled parcels; (6) market access and credit availability are necessary for success with settlement and titling programs; and (7) river-based transport for both marketing products and purchasing inputs requires investment in maintaining the navigability of the rivers—that is, clearing fallen trees and reforesting important watersheds—accompanied by assured future control of these waterways, probably by a public agency.

In addition to resolving conflicting tenures between the SIAPAZ program and the landholders within the reserve, INRA had to deal with contentions between the members of twelve cooperatives that got land from the previous government and fifteen colonists (*colonos*) who professed ownership of the same land but whose claims had been negated by the agrarian reform. Most of these latter people had left the area after losing their land, but, with the election of the new government, came back to challenge the cooperatives and demanded the return of their property. The resulting controversy caused neither the cooperative members nor the contending *colonos* to cultivate the land or care for the cattle. Members of both groups often resorted to selling timber to finance their subsistence needs; they cut fences if necessary and stole or slaughtered cattle.

INRA played a mediating role in this situation, negotiating separately with the cooperatives and the colonists and crafting an agreement whereby the former kept part of their land while the latter got some of what they claimed. The negotiation successfully reduced the areas of conflict, but the agreement is only partially documented in that INRA has neither the equipment nor the teams to demarcate the recognized boundaries of land—nor even the personnel trained to issue definitive titles. The final arrangement was for the cooperatives, which possess definitive titles, to donate part of their holdings to INRA, which will retitle the land to beneficiaries of the settlement program, including fifteen *colono* families.



INRA opted for this settlement scheme since all parties to the conflict preferred not *to* meet and transfer land directly and since functionaries could negotiate better with individual *colonos* about locating parcels and house plots after INRA had secured ownership.

### 3.5 PRODERE EXPERIENCES WITH TITLING AND CADASTRE

The Programa de Desarrollo para Desplazados Refugiados y Repatriados en Centro América (PRODERE) operates within the overall organization of the United Nations Development Program (UNDP) in Nicaragua. It has a integral regional development logic, of which one component is legalization of rights *to* land claimed by people in the area covered by the program. In the Estelí region, PRODERE staff estimate that about 60 percent of the landholders do not have legally recorded titles.

There are two types of nonlegal tenure. Some unlawful tenure originates from transfers that are not recorded in the property registries. Such transactions are viewed as legitimate by the local community, however, since they stem from the customs of a people who do not even formally record their births. Many rural communities, especially those that are isolated from major population centers, do not register inheritances, land sales, subdivisions, exchanges, or even claims deriving from long use and possession of national lands.<sup>9</sup> Such possession of the land has been adequate under previous regimes, under which special arrangements were made for access to credit for those who had no legal title. Under present rules, however, banks require recorded titles as guarantees for loans of more than one year's duration (e.g., investment loans, which are typical in the case of cattle enterprises). It is not clear how much of the current credit shortage is due to these changes in rules for access, which clearly favor the larger enterprises, or is simply a consequence of a cutback in available funds.

To legalize such claims on a community-by-community basis would cost about C\$500 per title granted once the fundamental facts of each individual case become clear. To help with this process PRODERE established diagnostic teams which work for up *to* two months with local organizations and landholders *to* gather basic information about landholdings and land use.

Other nonlegal tenure derives from the **assignment** of land to agrarian reform beneficiaries without the state's having secured legal title before distribution. To legalize these titles, either INRA must be vested with title or requirements for recording title must be met by using the facilities offered in Law 88.

In either case, the cost can be high **for sorting** out exactly **who has** what **rights to** what **land**. To deal with these **often** complex **and overlapping** claims *to* land, the *alcalde* of has formed a municipal technical committee composed of representatives of landholders and claimants. Working with this committee, the *alcalde* has arranged in several cases of conflict

---

9. Tenure based on length of possession can be legalized by the claimants' presenting sworn statements to a judge, accompanied by testimonies from three witnesses that the claimants have been in possession of the land for at least two years.

to purchase the rights of some claimants and to transfer these to others. PRODERE'S legalization program has budgeted US\$55,000 for 558 cases of contention. The properties are all surveyed at a size-appropriate scale. Titles are issued to either individuals or collectives, though most cooperative members are opting for individual titles—except in the Jalapa area, where cooperatives are more economically secure. Even in cases of individual titling within cooperatives, however, members retain the group management structure to qualify for credit through the CODEPA program.

PRODERE is also undertaking cadastral mapping, at a scale of 1:50,000, to locate property boundaries and facilitate planning for technical assistance and infrastructure projects. The boundaries are located on topographic maps by teams of local residents under the overall direction of trained land surveyors. While not sufficiently precise in most cases to meet the requirements of a national cadastre, the methodology of involving community residents in marking the boundaries is sound and substantially reduces costs over hiring licensed surveyors.

### 3.6 UNAG EFFORTS AT LEGALIZATION OF LAND TENURES

UNAG, working in association with the Federación Nacional de Cooperativas (FENACOOP), has supported the legalization of titles issued through agrarian reform. The effectiveness of this program is difficult to judge, however, since the recording of agrarian reform titles in property registries has not been consistent across districts. Nevertheless, approximately 1,500 cooperatives have registered their titles in some form. This is an important achievement, which has been accomplished with minimal resources supplementing those put together by UNAG and FENACOOP for offering legal services to members.

A census of cooperatives is now being conducted to assemble information on the type of title possessed if there is no documentation, whether and how the title is recorded in the appropriate property registry, whether the cooperative has been certified with *a personería jurídica*, whether the cooperative's membership has been properly recorded with the Ministry of Labor, and what steps are necessary for legalizing titles in cases where documentation is lacking.

There may be deficiencies, however, even where title has been recorded in the property registries, because there is no requirement that a design for surveying be prepared in combination with the application for title, even in instances of subdividing *fincas*.<sup>10</sup> Moreover, being "recorded" does not always mean being protected by law. In some registries agrarian reform titles have been entered in a special "book of agrarian inscriptions," which does not provide the same legal backing as the "real rights" books of the registries. Also, title may have lapsed if the cooperative in whose name it was issued is no longer functioning. Nonetheless, the experiences of UNAG and FENACOOP with legalizing titles, along with the

---

10. Municipalities covered by the national cadastre require a survey to be planned in conjunction with title registration.

availability of staff and practice with such an effort, provide still another demonstration of local initiative and creative action in dealing with tenure insecurity.

The experiences described above give examples of how people are organizing to deal with the problems of tenure insecurity—that is, they are not waiting for state programs, yet are reaching agreements, often recorded in property registries, about who has what rights to land. With these episodes in mind, we recommend the following openings as available for immediate action while the Government of Nicaragua negotiates with the World Bank and the Inter-American Development Bank (IDB) for a comprehensive cadastre, titling, and registration program.

#### 4. OPPORTUNITIES FOR ACTION

The greatest immediate need is to disengage superimposed claims to land, that is, (1) to mediate and separate conflicting claims to the same land, (2) to document the agreements among parties in conflict, and (3) to record the documented agreements in a renovated property registration system.

A major effort to meet this need is the cadastre, titling, and registration program, designed with World Bank and IDB assistance, concerning land affected by the agrarian reforms of the previous government and the distribution policies of the present government. The target of action comprises 1 million manzanas (700,000 manzanas assigned to ex-combatants through *constancias de asignación*, and 300,000 manzanas held by people with no legal title, that is, *non-resistencia* occupants of agrarian reform lands).

These 1 million manzanas represent 800 properties. The proposed registration program would legalize the state's ownership of this land, that is, complete the transfer of ownership from previous proprietors to **INRA**, so that the state agency can then assign definitive titles. The program will concentrate on **geographical** regions where members of the *resistencia nicaragüense* have been offered or already occupy land.

The outlined method for INRA's titling involves describing the parcels in a way that updates and extends the land cadastre, thereby equipping the titled owners with parcel plans and the country with a precise definition of parcel boundaries. The program also proposes to modernize the registries in which the titled properties are to be recorded, so that the registration system will provide more accessible and secure information about rights to all land, not just that affected by the various land-distribution policies.

There are several ways for focused programs to contribute to this overall effort of legalization:

**(1) Assist with mediating land conflicts and record local agreements about land rights in the appropriate property registries.**

The **World Bank/IDB** cadastre, titling, and registration program was not **scheduled** to start until August 1993, and the more extreme manifestations of the problem of tenure insecurity **had** to be addressed before that time. Moreover, the Bank/IDB program could proceed more quickly if conflicts among the superimposed claims to land were resolved at least to the satisfaction of **neighbors** living in the affected area. The **needed conflict-resolution** process involves legalizing **landholdings previously acquired by INRA** but not recorded in the registries, **validating titles already issued by INRA**, and **updating rights that were transferred in the interim**.

This effort can be supported by **INRA, UNAG, and other private organizations, which can help the parties in conflict come** to some agreement about their respective rights to land; in addition, there may be good reason to develop the capacities of nongovernmental organizations (NGOs) to carry out this program. Whatever the institutional paradigm, it is important that the methodology of the local land-conflict mediation commissions be tested and applied to this process, with the legal system being the documenter of the agreements on rights to land rather than the arbiter. Such an approach needs to be advanced and diffused in Nicaragua, along with careful cataloging of the conditions under which it is appropriate.

Recent governmental decrees provide for the compensation of losses stemming from agreements on **rights** to land where the state is a **contributor to** the tenure **dispute**. These edicts offer an occasion to separate agreements about who has what rights to land from questions of compensation for **damage** from **loss** of rights. This **opportunity should not** be lost.

In project terms, the objective of the legalization program is the inscription of locally substantiated rights to land in efficient property registries. Supporting activities to be carried out in this procedure are:

- (a) formation of a core team trained in techniques of conflict mediation and investigation of land rights, including interpretation and application of relevant legislation;
- (b) acquisition of basic infrastructure, office space, transportation, material, word processing equipment, files, and administrative staff, and definition of appropriate administrative and coordinating mechanisms linking the legalization personnel with **INRA** and other governmental agencies;
- (b) instruction of field mediation technicians, including staff of existing *bufetes populares*, in techniques of investigating rights to land and mediating conflicts, formation of local mediation commissions, legalization of agreements reached among holders of conflicting rights to land, and official identification of those who acquire legalized rights, such as *personería jurídica* for cooperatives;
- (d) documentation of de facto and mediated agreements to separate superimposed claims to land in priority areas of the country and transcription of these agreements;

- (e) preparation of legal descriptions of properties (in most cases survey plans) suitable for incorporation into the national cadastre at a scale and precision appropriate to the value of the properties;
- (f) investigation of cases where the fitting methodology is legalization of property in the name of the state and presentation of procedures appropriate for achieving that goal to relevant state agencies;
- (g) provision of legal services related to property-right transfer and registration and delineation of responsibilities acquired by the holder of property rights as well as other rights to land (rentals, leaseholds, inheritances, tax payments);
- (h) creation of seminars and workshops involving lawyers, judges, farm-organization leaders and members, bank employees handling mortgage processing, and other local leaders active in the process of mediation and legalization, application of existing legislation for recording property rights, and maintenance of accurate records of land rights in property registries;
- (i) investigation of practices under existing property-legislation procedures in Nicaragua and neighboring countries to propose needed modifications to the National Assembly and governmental agencies when warranted; and
- (j) development of a fee scale for compensating legalization program teams for services rendered, including greater subsidization for work relating to conflicts created by state programs and efforts to end the war and less assistance for normal operations of the land market.

## **(2) Investigate the rights to land of indigenous communities.**

As the conflict-mediation and title-legalization program develops, it is important to clarify the legitimate claims of indigenous peoples, whose rights to land have become ambiguous and legally very fragile in this century. Actions to achieve clarification of legitimate native rights would include:

- (a) support for efforts by indigenous communities to conduct **population** censuses, issuance of identity cards if desired, censuses of indigenous land held by **both** nonindigenous and indigenous people, evaluation and improvement of management systems for indigenous lands;
- (b) formation and instruction of mediation commissions for the discussion of competing claims and their possible resolution, including conduct of public meetings and accumulation of relevant documents describing property rights over land claimed by indigenous communities;
- (c) demarcation of boundaries of indigenous lands, both where there are and are not competing claims, after reaching consensus (performance of survey and monumentation of boundaries where competing claims have been eliminated and registration of survey plans in proper cadastral office at no charge to agreeing parties);
- (d) inscription of agreements reached, free of charge, in appropriate property registries when competing claims have been removed; and
- (e) formation of local workshops to explain procedures for transferring rights to indigenous communities' land as well as rights and responsibilities of holders of title to such land.

### (3) Develop mediation and titling methodologies for fragile lands and forestlands.

The rapidly expanding problems of ecological degradation require specific procedures whereby titles issued for private access to fragile lands and forests are consistent with national programs for the protection of such areas. For example, community-based concessions combined with technical and financial assistance may be more effective than fee-simple ownership of land and state ownership of forests or fee-simple ownership of both land and forests.

At the same time, programs must be devised that provide incentives for the preservation of forests and disincentives for their destruction. Experience in Mexico, Costa Rica, Ecuador, Brazil, and Peru can be studied for possible **adaptation** to Nicaraguan. It is necessary to reduce the pressure on forests by **stabilizing populations** in the **productive agricultural regions** of the country (which is one objective of the legalization program).

Since various policies to protect Nicaragua's forests are in flux at this time, it is fitting to conduct pilot **programs** to stabilize the **populations around** the SLAPAZ and BOSAWAS reserves **by such approaches as IRENA and INRA** have attempted in the Guásimo area, that is, by moving families from core zones to areas identified as **capable of supporting agroforestry programs and exchanging their large, but untitled holdings for more compact, but definitively titled parcels.**

In addition to developing and implementing these pilot programs, a separate effort should monitor and assess the impacts of different strategies in order to identify positive methods **and** ideas for possible replication on a more massive scale.

### (4) Upgrade the registry system.

A key factor in **Nicaragua's property problem** is degradation of the registry system. Mediation of conflicts requires more accessible registries with more accurate information. **Experience in Ecuador, for example, shows how creating a simple (computerized) database of titles in existing registries can greatly hasten the process of** adjudication of rights and legalization of newly acquired titles. Departmental registries that correspond to government and farmer priorities should be indexed in a way that agrees with the overall plan of registry modernization being developed for **funding by the World Bank and IDB. This computerization** of indices will improve access to the system by cutting down on the time needed to search for title information and will enhance accuracy of information by identifying contradictory entries in registry books and existing lacunae in chains of title.

Activities in registry upgrading would include:

- (a) design of format and development of software and procedures for entering and querying the property database concerning name and address of participants in property transactions, date of transaction, date of registration, type of transaction involved, area of property, location of property (neighborhood, community, *municipio, departamento*), **value involved, name of notary, name of lawyer, number**

- of property, number of *tomo and folio* of parent property in case of subdivision, and fees paid to registry;
- (b) contract with and **training** of staff for indexing and instruction of registry staff in use of index and **maintenance** of **database** once created, care of equipment, and **storage** of back-up copies of database;
- (c) instruction of staff in legal **procedures involved** in altering incorrect or imprecise **information** identified **through indexing and public** appeals; and
- (d) **purchase of required equipment, supplies, and** replacement components.

**(5) Strengthen the coordination of program components for legalizing title.**

The Consejo Nacional del Agro (CONAGRO)" requires all regional development programs to contain modules for resolving disputes and legalizing land titles. However, as shown in section 3, which describes some of the local programs that work with land tenure, a variety of methodologies of recording land rights is used by the different systems. Therefore, the transcription process needs coordination so that resources expended will develop comparable procedures for modernizing and improving property registration in Nicaragua and will enlist popular support for that registry.

Since separating superimposed claims to land is a precondition to realizing investment potentials and improving **productivity—both** of which are intensely needed by the Nicaraguan economy—it is vital to coordinate the many programs being developed to resolve these tenure problems. Yet with drastic cutbacks in public service, critically important human resources are no longer available to effect this responsibility.

While establishing priorities within the government, the NGOs, and the international donor community is a difficult task, even under the best of conditions, the following activities are proposed for constructing the consensus needed to assure effective use of scarce resources for the resolution of land-tenure conflicts, urban as well as rural:

- (a) development of an institutional site and capacity for coordinating, monitoring, and evaluating programs for improving tenure security (CIERA might be an appropriate locus for such an effort affecting agricultural land, while INIFOM might be suitable **for urban** land); and
- (b) organization of national and regional workshops specializing in the legal and institutional structures and methodologies for improving tenure security in Nicaragua, with the participation of people conversant with relevant endeavors in other countries (the national workshop would involve the staff and leadership from central offices of **INRA**, OOT, **INETER**, Supreme Court, **INIFOM**, **UNAN**, **UCA**, **UNAG**, **legal** and **survey** professional associations, national confederations of indigenous peoples, **CoRNAP**, *movimiento comunal*, **ATc**, and international organizations; the regional workshops would take place in the Pacific district, the Central zone, and the Atlantic area, with similar representation).

---

**11. CONAGRO, which is composed of representatives of MAG, INRA, and IRENA, works as a policy coordinating group.**

**(6) Support the stabilization of land claims established through privatization of the Areas de Propiedad del Pueblo.**

**Important land resources formerly organized as state enterprises (the APP) are being distributed to new and often unprepared managers, who must deal with threats to their land claims and, at the same time, create economically successful enterprises in a highly unstable environment. This predicament arises especially when lands are being distributed to the former workers of APPs and to ex-members of the army and the resistance.**

**The combination of provisional assignments of land rights with undefined and untested management structures creates a high probability of failure unless efforts are made to provide greater security of expectations. Activities in this respect might include:**

- (a) extending land-assignment titles used for agrarian reform land to recipients of ex-APP lands;**
- (b) combining management training with special credit programs designed to improve market linkages during periods of transition;**
- (c) monitoring and evaluating worker-management models currently being implemented and applying past experiences with group farms in Nicaragua and other countries to the problems that these enterprises face; and**
- (d) developing technical packages for producing and marketing economically viable products within an environmentally friendly framework.**



**ANNEX 1**

**Title issued by INRA**

---

*Ministro Director del  
Instituto Nicaragüense de Reforma  
( )*

Accionando en nombre y representación de dicha Institución, y de conformidad con las facultades que le otorgan las Leyes: Decreto No. 782 del 19 de Julio de 1981, Ley de Reforma a la Ley de **Reforma Agraria No. 14 del 11 de Enero de 1986, Ley Orgánica del Instituto Nicaragüense de Reforma Agraria** (Decreto No. 38-9, publicado en el Diario Oficial "La Gaceta" No. 181 del 27 de Septiembre de 1981) y demás Reglamentos vigentes,

### **CONSIDERANDO:**

I,

Que, es política del Gobierno de la Republica de Nicaragua, impulsar un proceso de ordenamiento y legalización de la Reforma Agraria Nicaragüense, que permita estabilizar la tenencia de la tierra, generar las bases para el desarrollo del sector agropecuario y en particular elevar el nivel de vida de la población campesina, en cumplimiento del Programa de Gobierno.

II,

Que, es indispensable garantizar la propiedad de la tierra a los campesinos del Sector Reformado con el propósito de fortalecer un clima de seguridad y estabilidad en el agro nicaragüense que beneficie a todos los productores agropecuarios.

III,

Que, igualmente es imprescindible dotar a dichos campesinos de la seguridad jurídica necesaria sobre la tierra que trabajan, lo que permitirá que contribuyan de manera eficiente al desarrollo integral de la nación.

**POR TANTO:**

**ACUERDA:**

**UNICO:**

Extender en forma gratuita, el presente,

**TITULO DE PROPIEDAD AGRARIA,**

A favor de \_\_\_\_\_

Representado por \_\_\_\_\_

- 1.- Efectivamente, el INSTITUTO MCARAGUENSE DE REFORMA AGRARIA (INRA) es dueño en dominio y posesión de la siguiente propiedad rústica; la cual se describe y deslinda de la siguiente forma: ■ \_\_\_\_\_ ■

Dicha propiedad se halla inscrita con los Nos. \_\_\_\_\_

Sección de Derechos Reales, Libro de Propiedades del Registro Público del Departamento: \_\_\_\_\_

- 2.- De la propiedad anteriormente descrita y deslindada en la cláusula 1) que antecede, se desmembra o segrega un Lote de terreno que mide: ■ \_\_\_\_\_ ■

\_\_\_\_\_, el cual tiene los siguientes linderos particulares: None, \_\_\_\_\_; Sur, \_\_\_\_\_

\_\_\_\_\_; Oriente, \_\_\_\_\_

\_\_\_\_\_; Occidente, \_\_\_\_\_

- 3.- El Lote de terreno desmembrado o segregado que se ha descrito en la cláusula 2) que antecede, el suscrito Ministro Director del INRA, se la cede y traspasa en forma gratuita a: ■ \_\_\_\_\_ ■

representada por el Sr. (a) \_\_\_\_\_

quien acredita su representación con los siguientes documentos: \_\_\_\_\_

- 4.- Por su parte, el señor (a) \_\_\_\_\_  
accionando en su carácter expresado, dice: que acepta la donación.
- 5.- Se autoriza al señor Registrador de la Propiedad Inmueble a abrir una nueva cuenta registral para la propiedad donada, con la correspondiente anotación al margen de la que fue segregada.
- 6.- El presente Título acredita a \_\_\_\_\_  
como el (la) legítimo (a) dueño (a) en dominio y posesón de la propiedad descrita y deslindada en  
la \_\_\_\_\_.

Dato en la Ciudad de \_\_\_\_\_, Departamento de \_\_\_\_\_  
a los \_\_\_\_\_ días del mes de \_\_\_\_\_ de mil novecientos noventa y \_\_\_\_\_

\_\_\_\_\_  
*Ministro Director*  
*del INRA*

\_\_\_\_\_  
*Propietario*  
*(A ruego por impedimento)*

Ante mi, \_\_\_\_\_

Inscrito en el Libro de Titulación del INRA con el No. \_\_\_\_\_ Folio \_\_\_\_\_ Tomo \_\_\_\_\_  
Managua, \_\_\_\_\_ de \_\_\_\_\_ de mil novecientos noventa y \_\_\_\_\_



ANNEX 2

**INRA data on land titling, 1992**

## ANNEX 1

Presentation on land reform 1997

**ANNEX 2.1 Titling of agrarian reform lands, by type and region, March-April 1990  
(current official indexes)**

REGION	COOPERATIVES		INDIVIDUALS		TOTAL	
	# <sup>f</sup>	Area (mz)		Area (mz)	i	Area (mz)
I	455	112,794.40	1,617	34,367.14	2,072	147,161.54
II	385	81,571.00	1,382	106,609.01	1,767	188,180.01
III	299	69,243.37	576	24,755.10	875	93,998.47
IV	476	123,298.34	648	39,016.86	1,124	162,315.20
V	92	43,100.77	894	75,485.15	986	118,585.92
VI	169	26,591.50	2,669	57,090.58	2,838	83,682.08
RAAN	5	65,612.00	384	27,913.20	389	93,525.20
RAAS	5	1,312.00	52	4,032.00	57	5,344.00
ZE III	50	22,620.50	361	30,577.58	411	53,198.08
Total	1,936	546,143.88	8,583	399,846.62	10,519	945,990.50

Source: Dirección de Política de Tierras, INRA, 1992.

**ANNEX 2.2 Cooperative titling of agrarian reform lands, March-April 1990 (current  
official indexes)**

REGION	CAS		Ccs		CT		CsM		TOTAL	
	N	Area (mz)	N	Area (mz)	Area (mz)		Area (mz)		N	Area (mz)
Jl	455	112,794.40	1,617	34,367.14	2,072	147,161.54	16	34,315.20	455	112,794.40
II	385	81,571.00	1,382	106,609.01	1,767	188,180.01	8	32,618.35	385	81,571.00
III	299	69,243.37	576	24,755.10	875	93,998.47	16	14,982.52	299	69,243.37
N	476	123,298.34	648	39,016.86	1,124	162,315.20	0	4,805.00	476	123,298.34
V	92	43,100.77	894	75,485.15	986	118,585.92	1	5,092.77	92	43,100.77
VI	169	26,591.50	2,669	57,090.58	2,838	83,682.08	4	5,117.50	169	26,591.50
RAAN	5	65,612.00	384	27,913.20	389	93,525.20	0	65,042.00	5	65,612.00
RAAs	5	1,312.00	52	4,032.00	57	5,344.00	0	0.00	5	1,312.00
ZE III	50	22,620.50	361	30,577.58	411	53,198.08	0	16,005.50	50	22,620.50
Total	1,936	546,143.88	8,583	399,846.62	10,519	945,990.50	45	177,978.84	1,936	546,143.88

Source: Dirección de Política de Tierras, INRA, 1992.



**ANNEX 2.3 Individual titling of agrarian reform lands, March-April 1990 (current official indexes)**

REGION	STRATUM 1		STRATUM 2		STRATUM 3		STRATUM 4		STRATUM 5		TOTAL .	
	Area (mz)		M Area (mz)		x Area (mz)		N Area (mz)		4 Area (mz)		I Area (mz)	
I	952	3,584.25	497	9,991.63	143	11,829.23	22	6,037.89	4	2,924.14	1,617	34,367.14
II	465	2,292.95	584	16,263.95	233	19,417.89	63	19,578.02	37	49,056.20	1,382	106,609.01
III	304	1,117.15	165	3,767.25	84	6,778.30	17	4,672.40	6	8,420.00	576	24,755.10
IV	372	1,177.44	163	3,585.92	81	6,698.50	16	5,226.00	16	22,329.00	648	39,016.86
V	37	175.57	273	7,770.37	504	37,649.54	69	19,482.30	11	10,407.37	894	75,485.15
VI	1,434	5,728.15	1,010	18,292.93	179	16,293.50	37	10,849.00	9	5,927.00	2,669	57,090.58
RAAN	6	52.00	214	5,344.20	142	12,735.00	17	5,032.00	5	4,750.00	384	27,913.20
RAAS	1	26.00	19	504.50	29	2,658.00	3	843.50	0	0.00	52	4,032.00
ZE III	15	71.20	213	5,955.83	113	9,159.55	13	3,620.00	7	11,771.00	361	30,577.58
<b>Total</b>	3,586	14,224.71	3,138	71,476.58	1,507	123,219.51	257	75,341.11	95	115,584.71	8,583	399,846.62

Stratum 1 = < 10 manzanas

Stratum 2 = 10-49 manzanas

Stratum 3 = 50-199 manzanas

Stratum 4 = 200-500 manzanas

Stratum 5 = > 500 manzanas

Source: Dirección de Política de Tierras, INRA, 1992.

### **ANNEX 3**

## **Land distribution, Area de Propiedad del Pueblo**

**Source: Preliminary data, CORNAP, 1992.**



## AGROEXCO

BENEFICIARIES	AREA		PROPERTY	
	(mz)	%	#	%
<b>Returns to private sector</b>	17,221.4	<b>48.7</b>	62	<b>54.4</b>
<b>Former army members</b>	<b>4,481.8</b>	12.7	16	14.0
Workers	11,396.1	32.2	27	23.7
Demobilized resistance	<b>2,299.0</b>	<b>6.5</b>	<b>9</b>	7.9
<b>Total area</b>	<b>35,398.3</b>	<b>100.0</b>	<b>114</b>	<b>100.0</b>

## Production statistics

AGRICULTURAL PRODUCTION	VOLUME (000 QQ)	% NATIONAL PRODUCTION
Cotton fiber	<b>166.4</b>	25.7
Cotton	176.4	35.0
Peanuts	15.0	
Ajonjoli	17.0	
<b>No. of workers</b>	<b>2,000</b>	

## HATONIC

BENEFICIARIES	AREA		PROPERTY	
	(mz)	%		
Returns to private sector	80,455.0	26.0	78	<b>40.4</b>
Former army members	59,034.0	19.1	27	14.0
Workers	99,319.0	32.1	56	29.0
Demobilized resistance	70,619.0	22.8	32	16.6
<b>Total area</b>	<b>309,427.0</b>	<b>100.0</b>	<b>193</b>	<b>100.0</b>

## Production statistics

CATTLE PRODUCTION	VOLUME (head)	% NATIONAL PRODUCTION
Cattle for slaughter	22,500	15.7
Breeding stock	5,000	70.0
<b>No. of workers</b>	<b>4,000</b>	

## CAFENIC

BENEFICIARIES	AREA		PROPERTY	
	(mz)	(56)	(#)	(%)
Returns to private sector	26,890.0	35.1	54	40.6
Former army members	10,250.0	13.4	19	14.3
Workers	24,942.0	32.6	38	28.6
Demobilized resistance	14,542.0	19.0	22	16.5
<b>Total area</b>	<b>76,624.0</b>	<b>100.0</b>	<b>133</b>	<b>100.0</b>

## Production statistics

COFFEE PRODUCTION	VOLUME (000 QQ)	% NATIONAL PRODUCTION
Café	88.2	14.7
Processed coffee	150.0	25.0
<b>No. of workers</b>	<b>5,000</b>	

## CHILTEPE

BENEFICIARIES	AREA		PROPERTY	
	(mz)	(%)	(#)	(%)
Returns to <b>private</b> sector	9,312.0	60.6	133	86.4
Former army members	1,700.0	11.1	3	1.9
Workers	3,661.0	23.8	7	4.5
Demobilized resistance	682.0	4.4	11	7.1
<b>Total area</b>	<b>15,355.0</b>	<b>100.0</b>	<b>154</b>	<b>100.0</b>

## Production statistics

MILK PRODUCTION	VOLUME (000 QQ)	% NATIONAL PRODUCTION
Milk		
<b>No. of workers</b>	<b>200</b>	

## ANNEX 4

**Persons interviewed,  
4-22 October 1992**

Jorge Jergen Stragne-Hansen, Danish Embassy  
 Alberto Machado, Consultant  
 Daniel Nunez, President of UNAG  
 Lesbia Mendoza, Asesor Legal, UNAG  
 Fatima Orosco, Asesor Legal, UNAG  
 Margarita Arguello, INRA  
 Jaime Cofré, Asesor, INRA  
 Danilo Moya, Delegado del INRA en San Carlos  
 Manuel de León, Tenencia de la Tierra, INRA  
 Gustavo Sequeria, Programa de Titulación, INRA  
 Brian Ruddert, ARDO, UsAm  
 Dra. Ximara Paguaga, Decana de la Facultad de Ciencias Jurídicas y Sociales, UNAN-León  
 Juan Pablo Obando, Vice-Decano, Facultad de Ciencias Jurídicas y Sociales  
 Salvador Perez and Aurora Delgado, leaders of Sutiava community in León, Frente al Asilio de Ancianos  
 Dr. Boris Vega, lawyer from Masaya, Bufete Popular, Frente al Procesamiento Politico, Masaya  
 Wilfredo Barcenas and Oscar Hernandez, Empresa Carlos Arguero, León  
 Bayardo Centena, Vice-Registrador, Registro de la Propiedad, León  
 Dr. Mario Mayorga, Registrador, León  
 Carlos Grillo Morales, Registro, León  
 Juan Ramón Guitierrez, Delegado de INRA, Matagalpa  
 Mario Amador, Delegado del Ministro de Gobernación, Matagalpa  
 Ronald Perez, Topografo, Matagalpa  
 José Cruz, sub-Gerente, BANPRO, Matagalpa  
 Vidal Antonio Rivera F., Presidente, Comunidad Indígena de Matagalpa  
 Ana Francis Martinez, Técnica del INRA, Waslala  
 Franklin Gacia, Desmovilizado de la Resistencia, Waslala  
 Juan Valdivieso, Alcalde, Waslala  
 Jose Rizzo Centeno, Gobernación, Waslala  
 Alan Nesor Gonzales, Desmovilizado, Waslala  
 Comandante Dimas, Waslala  
 Victorino René Saez, (Comandante Cadena), Waslala  
 Mireya Molina, Abogada, Managua  
 Orlando Cortes, Escuela de Economía Agrícola, UNAN, Managua  
 Freddy Amador, Escuela de Economía Agrícola, UNAN, Managua  
 Rosario Ambrogi, Escuela de Economía Agrícola, UNAN, Managua  
 Ricardo Guevarra, Escuela de Economía Agrícola, UNAN, Managua  
 Manuel Cervantes, Escuela de Economía Agrícola, UNAN, Managua  
 Maria Lourdes Mendoza, Secretaria, Comunidad Legítima Indígena de Sebaco  
 Felipe Duarte, Presidente, Confederación Centro Norte de la Comunidad Indígena, Tamara, Sebaco

## : OVERALL LAND DISTRIBUTION PROGRAM

BENEFICIARIES	AREA		PROPERTY	
	(mz)	(%)	(#)	(%)
<b>R</b> eturns to private sector	<b>133,878.4</b>	<b>30.6</b>	<b>327.0</b>	<b>55.1</b>
Former army members	75,465.8	17.3	65.0	10.9
Workers	139,318.1	31.9	128.0	21.5
Demobilized resistance	88,142.0	20.2	74.0	12.5
<b>Area total</b>	<b>436,804.3</b>	<b>100.0</b>	<b>594.0</b>	<b>100.0</b>





Alfredo Leiba Herrera, Secretario, Confederación Centro Norte de la Comunidad Indígena, Tamara,  
Sebaco

Jaime Idrovo, Director, **PRODERE**, Estelí

Roberto Laguna, Encargado, **UNAG**, Estelí

Raul Molina, Delegado del **INRA**, Estelí

Maria Elena Estrada, Registrador, Registro Público, Jinotega

Luiz Gomez, Asesor Legal, Movimiento Comunal, Jinotega

Mario Herrera, Investigador, **CIRA**

Dr. Oriel Soto, Procurador de la Propiedad

Marvin Ortega, Consultant

## ANNEX 5

### Persons interviewed, 15-29 September 1994

Lic. Margarita Arguello Vega, Directora General de Fortalecimiento Institucional, Instituto Nicaragüense de la Reforma Agraria (INRA)  
 Jaime Coffré, Asesor, Instituto Nicaragüense de la Reforma Agraria (INRA)  
 Julio Castillo, Coordinador del Proyecto CEE, Instituto Nicaragüense de la Reforma Agraria (INRA)  
 Ing. Horacio García Mejía, Director Ejecutivo, Oct, Ministerio de Finanzas  
 Dra. Fatima Orozco, Asesor Legal, Unión Nacional de Agricultores y Ganaderos (UNAO)  
 Lic. Ortencia Aldana, Directora General, Oficina de Ordenamiento Territorial (Oar)  
 Ing. Javier Matus, Consultant  
 Ing. Leopoldo López Gómez, Ministerio de Finanzas  
 Mario Arana, Economist, United Nations Development Program (UNDP)  
 Humberto Malin, United Nations Development Program (UNDP)  
 Matilda Mordt, United Nations Development Program (UNDP)  
 Alvaro Herdocia, Corporación Nacional de Administración Pública ( )  
 Michel Merlet, Institut de Recherches et d'Applications des Méthodes de Développement (Iit4M), Paris, France  
 Denis Dommier, Institut de Recherches et d'Applications des Méthodes de Développement (IRAM), Paris, France  
 Ariel Bucardo, Federación Nacional de Cooperativas Agropecuarias (FENACCOOP)  
 Dr. Miguel Robelo Ramírez, Procurador General de la Propiedad, Presidente de la Comisión Nacional de Revisión de las Confiscaciones (CNRC)  
 Ing. Herman Urbina, Catastro, Instituto Nicaragüense de Estudios Territoriales (INETER)  
 Eduardo Baumeister, Consultant  
 Luis Rodríguez, Escuela de Economía Agraria, Universidad Nacional Autónoma de Nicaragua  
 Mark Silverman, Acting Director, U.S. Agency for International Development, Managua  
 Miguel Gómez, Ministerio de Agricultura y Ganadería



## REFERENCES

- Mercado, Estela, and Isolda Espinoza. 1992. "Estrategía empresarial del cooperativismo agrario en Nicaragua: Período 1979-1991." Managua: Escuela de Economía Agrícola, Facultad de Ciencias Económicas, Universidad Nacional Autónoma de Nicaragua, October.
- Amador A., Freddy, and Gerardo Ribbink. 1992. "Nicaragua: Reformat agraria, propiedad y mercado de tierra." Managua: Escuela de Economía Agrícola, Facultad de Ciencias Económicas, Universidad Nacional Autónoma de Nicaragua, September.
- Amador A., Freddy, Rosario Ambrogi, and Gerardo Ribbink. 1991. "La Reformat agraria en Nicaragua: De Rojinegro a Violeta." Managua: Departamento de Economía Agrícola, Facultad de Ciencias Económicas, Universidad Nacional Autónoma de Nicaragua, September.
- Ambrogi, Rosario. 1992. "La Privatización en el sector agrícola: Caso Agroexco." *Revista de Economía Agrícola* (Escuela de Economía Agrícola-UNAN), no. 5, September.
- Comunidad Económica Europea. Misión de Análisis. 1993. "Diagnóstico de la situación actual de la propiedad y de la producción en el agro nicaragüense." Mimeographed.
- Economic Commission for Latin America and the Caribbean. 1994. "Nicaragua: An Economy in Transition." Mimeographed.
- Guevara, Ricardo. 1994. "El Sistema de bonos en Nicaragua." Mimeographed. Managua: n.p.
- Hendrix, Steven E. "The Crisis of Land Law and Policy in Nicaragua / La Crisis política y derecho inmobiliario en Nicaragua." *Comparative Juridical Review* 29: 3-24, 25-44.
- INRA (Instituto Nicaragüense de Reformat Agraria). 1992. "Evaluación intermedia proyecto de titulación Cua-Bocay, Waslala y Rio Blanco." Mimeographed. Managua: INRA, July.
- Instituto de Desarrollo Empresarial Asociativo. 1994. "Programa de apoyo a la legalización de la propiedad transferida a los sectores populares durante la revolución sandinista y aquellas adquirida bajo la administración actual con los acuerdos de concertación." Mimeographed. Managua: IDEA.
- IPADE. 1993. "Diagnóstico legal de las empresas del APT beneficiarias del proyecto CEE-IPADE." Mimeographed. Managua: IPADE.
- Matus, Javier. 1994. "Monitoreo al mercado de tierras." Mimeographed. Managua: N.p.
- Molina Torres, Mireya. 1992. "Legislación agraria y su vigencia actual." Mimeographed. Managua, 21 September.
- Molina Torres, Mireya. 1994. "Situación actual de la propiedad y posesión sobre la tierra en Nicaragua." Mimeographed. Managua, N.p.

- Movimiento Comunal Nicaragüense . 1994. "Propuesta para la discusión de una plataforma de lucha nacional: Por una solución definitiva al problema de la propiedad." Mimeographed. Managua: MCN.
- Nicaragua. 1992. "Posición del gobierno en torno a las propiedades en conflicto." Imprimatur. Managua, October.
- Nicaragua. Ministerio de Finanzas. 1994. "Avance en la solución al problema de la propiedad." Managua, 30 August.
- "¿Qué está pasando con el precio de los bonos?" *Cable Centroamericano* (Managua), 3:38, 19-25 September.
- Stanfield, J. David. 1994. "An Analysis of the Current Situation Regarding Land Tenure in Nicaragua." Mimeographed. Madison: Land Tenure Center, University of Wisconsin, and Terra Institute.
- Strasma, John, and Javier Molina. 1994. "Accelerating the Resolution of Property Cases in Nicaragua, 1994: Analysis of the Current System, with Recommendations." Report presented to Ministry of Finance, Managua. Mimeographed. Madison: Department of Agricultural Economics, and Land Tenure Center, University of Wisconsin.
- Strasma, John, and Javier Molina. 1994. "El Sistema de evaluación y compensación de la propiedad confiscada en Nicaragua entre 1970 y 1990: Evaluación y opciones para agilizarlo." Report presented to Ministry of Finance, Managua. Mimeographed. Madison: Department of Agricultural Economics, and Land Tenure Center, University of Wisconsin.
- Unión Nacional de Agricultores y Ganaderos. 1992. "Todo es ponerse de acuerdo, hom." *Productores* (Managua), no. 18, September, p. 41.
- Valladares Paguaga, Walia Marta Sáenz Terrán . 1994. "Problemas sobre la tenencia de la tierra: Superposición de títulos en la comunidad indígena de Sutiaba." Monografía para título de Licenciado en Derecho, Universidad Nacional Autónoma de Nicaragua, Facultad de Ciencias Jurídicas y Sociales, León .
- World Bank. 1993. "The Who, What and Where of Poverty in Nicaragua." Mimeographed. Washington, D.C.: World Bank.